

**NORTH CAROLINA
DURHAM COUNTY**

DECLARATION OF RESTRICTIVE COVENANTS

This Declaration of Restrictive Covenants (hereinafter "Declaration") is made this _____ day of _____, 2011, by Housing for New Hope, Inc., a non-profit corporation exempt under section 501(c)(3) of the Internal Revenue Code of 1986, as amended and having its principle office at 18 West Colony Place Durham, NC 27705.

Definitions

"City" means the City of Durham, a North Carolina municipal corporation.

"Declarant" means Housing for New Hope, Inc., its successors, successors in title and assigns, and any and all persons and entities having any right, title or interest in the Property.

"Occupancy Requirements" means that the property must be developed and/or rehabilitated into affordable housing and must be occupied by persons with incomes at or below 50% of the area median income.

"Period of Affordability" means the period beginning on the date of the issuance of a Certificate of Occupancy and ending on the date that is twenty (20) years from the date of the issuance of a Certificate of Occupancy.

"Property" means all and any part of the real property located at (address) to include the structure and any improvements existing on the Property or added to the Property at any point during the Period of Affordability.

Recitals

City requires as a condition precedent to the transfer of ownership of this Property that the Declarant execute, deliver and record this Declaration at the Durham County Registry of Deeds in order to create certain covenants running with the land for the purpose of enforcing the Period of Affordability requirements.

The Declarant expressly acknowledges and recognizes the City's reliance upon this commitment by the Declarant in the City's decision to transfer by sale the Property to the Declarant. The purpose of this Declaration is to set forth certain covenants, restrictions and requirements pertaining to the Property and to give to the City and their successors and assigns, the right to enforce this Declaration.

Covenants, Restrictions and Requirements

From and after the date of this Declaration, the Property shall be held, sold, transferred and conveyed subject to the covenants, restrictions and requirements hereinafter set forth:

1. The Declarant shall not convey, transfer, sell or encumber all or any portion of the Property, or permit the same, without the prior written consent of the City.
2. With the prior approval of the City, the Declarant may sell, transfer, or exchange the Property at any time, but the Declarant shall notify in writing any buyer or successor or other person acquiring the Property or any interest therein that such acquisition is subject to the requirements of this Declaration. Declarant agrees that the City may void any sale, transfer, or exchange of the Property if the buyer or successor or other person fails to assume in writing the requirements of this Declaration.
3. During the Period of Affordability, the determination of whether a buyer meets the income requirement shall be made by the Declarant or its designated agent, and a written record of such determination shall be provided to the City. Declarant or its successors must obtain written approval from the Director of Community Development for the City prior to renting the Property to a tenant, as the purpose of deeding the Property to Declarant is to foster affordable home ownership.
4. This Declaration is made for the benefit of the City and confers upon the City and its respective successors and assigns the right, without limitation, to enforce the provisions of this Declaration.
5. This Declaration may not be amended in any manner whatsoever without the prior written consent of the City. It shall be within the sole discretion of the City whether to give such consent.

The Declarant shall record any such amendment with the Durham County Register of Deeds, and provide notice file stamped copy of the executed and recorded amendment to the City.

6. The covenants, restrictions and requirements of this Declaration shall run with the Property and, except to the limited extent provided in Paragraph 1 of this Declaration, continue in full force and effect until expiration of the Period of Affordability. Except to the limited extent provided in Paragraph 1 of this Declaration, the covenants, restrictions and requirements shall pass to and be binding upon the Declarant's assigns, successors and successors in title to all and any portion of the Property. Except to the limited extent provided in Paragraph 1 of this Declaration, each and every contract, deed or other instrument hereafter executed covering or conveying all or any portion of the Property shall conclusively be held to have been executed, delivered and accepted subject to such covenants, restrictions and requirements regardless of whether the same are set forth in such contract, deed or other instrument. If a portion or portions of the Property are conveyed, all of such covenants, restrictions and requirements shall run to each portion of the Property.

7. Upon expiration of the Period of Affordability, this Declaration shall automatically terminate and be of no further force or effect. The Declarant may record with the Durham County Register of Deeds a written instrument approved by the City further evidencing the termination of this Declaration. The City shall be entitled to thirty (30) days' written notice prior to the recording of any such instrument, and Declarant shall furnish the City with a file-stamped, executed copy of same.

8. From the date of conveyance of a duly signed deed to Grantee of the subject property, Grantee shall have eighteen months to complete the construction of an affordable residential dwelling, for which the design and materials have obtained prior written approval from the Director of the Department of Community Development. The date of completion of construction shall be the date of issuance of a Certificate of Occupancy by the Durham City/County Building Inspections Department. If the dwelling construction is not completed within eighteen months, Housing for New Hope, Inc. may request a time extension from the City of Durham and received by the City prior to the expiration of the eighteen month period. The extension request must be in writing addressed to the Director of the Department of Community Development. In the event the City does not grant the time extension, title to the property and any improvements thereon shall be conveyed to the City of Durham by Grantee. If Grantee shall fail to provide good and clear title to the property to the City upon the City's demand, the City shall be granted title through an action in the General Court of Justice, and if there are liens or other impairments of title, Grantee shall be liable to the City for the cost of clearing or repairing such liens or impairments.

9. If a violation of any of the provisions of this Declaration occurs or is attempted, the City and its successors and assigns may institute and prosecute any proceeding at law or in equity to: abate, prevent or enjoin any such violation or attempted violation; compel specific performance of this Declaration; and recover monetary damages caused by the violation or attempted violation. Any such violation or attempted violation shall also be an event of default under any associated agreements by which the Property is furnished to Declarant and shall entitle the City and its successors and assigns, among other remedies, to accelerate and declare due and payable in full the outstanding balance of any loans made by the City pursuant to such agreements.

10. Any failure by the City to insist upon a strict performance of any covenants, restriction or requirement of this Declaration, or to exercise any option, right or remedy contained or created in this Declaration, shall not be construed as a waiver or relinquishment for the future of such covenant, restriction or requirement; rather, the same shall continue and remain in full force and effect.

11. If a court of competent jurisdiction determines that any of the provisions of this Declaration are void or unenforceable, the remainder of the provisions of this Declaration shall continue in full force and effect.

12. This Declaration shall be duly recorded in of the office of the Register of Deeds for Durham County immediately following its execution.

IN WITNESS WHEREOF, _____ has executed this instrument under seal on the date and year first above written.

ATTEST:

Housing for New Hope, Inc.

Corporate Secretary
(Please affix corporate seal here.)

By: _____
Terry Allebaugh, Executive Director

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

I, _____, a notary public for the aforesaid county and state, certify that _____ personally appeared before me this day, and acknowledged that he or she is the _____ Secretary of Housing for New Hope, Inc., a non-profit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Executive Director, whose name is Terry Allebaugh, sealed with its corporate seal, and attested by him/herself as its said Corporate Secretary or Assistant Secretary. This the _____ day of _____, 20____.

My commission expires:

Notary Public

This instrument and these certificates are duly registered at the date and time and in the Book and Page shown in the Register of Deeds' stamp on this instrument.

WILLIE COVINGTON, REGISTER OF DEEDS
FOR DURHAM COUNTY, NORTH CAROLINA

By: _____
Deputy Register of Deeds

_____, 20 ____